

OCT 14 2005

FEDERAL ELECTION COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

2005 OCT 17 A 9:42

In the Matter of)

) MUR 5453

Thomas M. Ariola, Jr., in his personal capacity)

GENERAL COUNSEL'S REPORT # 14

SENSITIVE

I. ACTIONS RECOMMENDED:

Accept the attached conciliation agreement with former deputy treasurer Thomas M. Ariola, Jr., in his personal capacity ("Respondent"); approve the appropriate letters; and close the file as to this Respondent.

II. BACKGROUND

On May 18, 2004, the Commission found reason to believe that former deputy treasurer Thomas M. Ariola, Jr. violated 2 U.S.C. §§ 441b(a), 441a(f) and 434(b)(3)(A) in his personal capacity, and authorized an investigation into the matter.¹ The Commission's findings were based upon information contained in a Reports Analysis Division ("RAD") referral, which showed, *inter alia*, that Respondent received, on behalf of the Giordano for U.S. Senate Committee ("the Committee"), and failed to refund, reattribute, or redesignate \$26,300 in excessive contributions, and he received, and did not refund, seven corporate contributions totaling \$6,750. The information also showed that Respondent failed to use best efforts to obtain missing contributor identifying information. See First General Counsel's Report, dated May 3, 2004.

¹ All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA.

The ensuing investigation revealed, *inter alia*, that the Respondent underreported the Committee's total receipts by \$18,248.78 on disclosure reports prepared by him in absence of the treasurer. See General Counsel's Report # 8, dated May 25, 2005, at pp. 15-22.

Following the investigation, on June 1, 2005, the Commission determined to take no further action with respect to Respondent in connection with 2 U.S.C. § 434(b)(3)(A), and found reason to believe that he violated 2 U.S.C. §§ 434(a)(1) and (b)(2) in his personal capacity. The Commission also concluded that the Respondent knowingly and willfully violated the Act based upon, among other things, Respondent's guilty plea in federal court to criminal violations of the Act in connection with his receipt and failure to refund excessive and corporate contributions. See *id.*; see also Respondent's Response dated September 9, 2004, at p. 4. The Commission further authorized pre-probable cause conciliation with Respondent.

III. DISCUSSION

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IV. RECOMMENDATIONS

1. Accept the attached conciliation agreement with former deputy treasurer Thomas M. Ariola, Jr., in his personal capacity.
2. Approve the appropriate letters.
3. Close the file as to this Respondent.

Lawrence H. Norton
General Counsel

Date

10/14/05

BY:

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Attachments

- 1-- Conciliation Agreement
- 2 --Civil penalty check